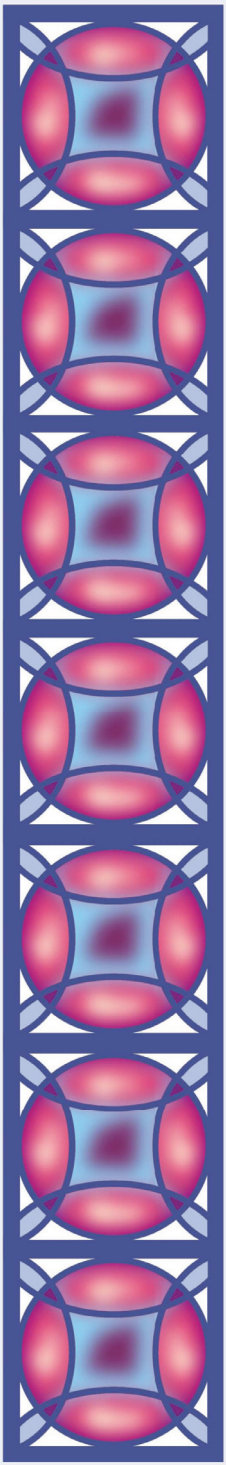

Florida Marriage Guide

Second Edition

A Summary of the Laws
Governing Marriage Licenses
and Solemnization of Marriage
in the State of Florida

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Two parties who wish to enter into a marriage in the State of Florida must obtain a Florida marriage license, which must be issued by a county court judge or clerk of circuit court, under his or her hand and seal.[1;2] No marriage ceremony can be performed without a valid license.[3]

Because marriage is of public interest, the state has the sole authority over all aspects of the legal union, except as restricted by the constitution. When a marriage contract is entered into between two people, the state is often said to be a third party to the contract.[4]

1. APPLYING FOR LICENSE TO MARRY

The parties must first submit to the clerk of circuit court (or county court judge) an application, including an affidavit setting forth their ages and Social Security Numbers.[5] Non-citizens may provide an alien registration number or other form of identification.[6] The parties must also file a written statement stating whether they completed a premarital preparation course, and verifying that they have read or otherwise accessed the family law handbook published by the Florida Bar.[7] If there appears to be no impediment to the marriage, the clerk (or judge) will issue a marriage license.[1]

2. THE MARRIAGE LICENSE

A Florida marriage license must be issued by a county court judge or clerk of circuit court, under his or her hand and seal.[1] The clerk keeps a record of all marriage licenses issued, with the names of the parties and the date of issuing.[8]

A marriage license does not become effective until three days after its issuance (although this three-day waiting period is waived

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[1] § 741.01(1), Fla. Stat.
[2] *Eidson v. Ludwig*, No. 05-CA-005494, 2010 Fla. Cir. LEXIS 14604 (Fla. 13th Cir. Ct. Sep. 27, 2010)
[3] § 741.08, Fla. Stat.
[4] *Allen v. Forsythe*, 142 S.W. 820, 160 Mo. App. 262.
[5] § 741.04(2), Fla. Stat.
[6] § 741.04(3), Fla. Stat.
[7] § 741.04(4), Fla. Stat.
[8] § 741.09, Fla. Stat.

for out-of-state residents and for couples who submit valid certificates of completion of a premarital preparation course).[9] The marriage license is only valid for a period of 60 days.[10] The effective date and expiration date are clearly stated on the license. In order for the marriage to be valid, the ceremony must be performed on or after the effective date, and on or before the expiration date. Once the license expires, no ceremony of marriage can be performed.[10]

Florida marriage licenses are valid statewide. For example, even if the parties obtain their license in Hillsborough County, the marriage can still be solemnized in Pinellas County. However, after the ceremony the license must be returned to the county where it was issued – regardless of where in Florida the ceremony took place.

3. PERSONS AUTHORIZED TO SOLEMNIZE MARRIAGE

The persons listed below are authorized to solemnize the rights of matrimonial contract (perform a marriage ceremony) in the State of Florida, provided the parties present a valid marriage license.[11] In this publication, the person who performs the ceremony is referred to as the "officiant."

1. Regularly ordained **ministers of the gospel** in communion with some church
2. Regularly ordained **elders** in communion with some church
3. Regularly ordained members of the **clergy**[12]

   The law does not prescribe who qualifies as an "ordained" minister, elder, or clergyman. If the officiant is authorized under the regulations of his or her respective religious denomination to perform marriage ceremonies, he or she is considered "regularly ordained" and is authorized to solemnize marriage in Florida.[13]
4. **Judicial officers**, including retired judicial officers, of the

[9] § 741.05, Fla. Stat.
[10] § 741.041, Fla. Stat.
[11] § 741.07, Fla. Stat.
[12] Ch. 78-15, Laws of Fla. (1978).
[13] Op. Att'y Gen. Fla. 049-379 (1949)

State of Florida

"Judicial officers" includes justices of the Supreme Court of the State of Florida, judges of the district courts of appeal, circuit courts, and county courts of the State of Florida, and United States federal judges whose jurisdiction encompasses part or all of the State of Florida. It does not include judges of compensation claims, administrative law judges, or state attorneys.[14]

5. **Clerks of the circuit courts** of the State of Florida

   This includes deputy clerks. A deputy clerk is authorized to perform every power which the clerk possesses, with the exception of the power to appoint deputies. The deputy clerk does not operate as a separate officer, however, but acts for and in the name of the clerk of the court.[15] Clerks must charge $30.00 for solemnizing matrimony.[16]

6. **Notaries public** of the State of Florida

   For solemnizing a marriage, the fee charged by a notary public may not exceed that provided by law to the clerks of the circuit court for the same service.[17] That fee is currently set at $30.00.[16]

7. **Florida civil-law notaries** (Florida international notaries)[18]

Any marriage which may be had and solemnized among the people called "Quakers," or "Friends," in the manner and form used or practiced in their societies, according to their rites and ceremonies, shall be good and valid in law; and wherever the words "minister" and "elder" are used in Chapter 741, Florida Statutes, they are held to include all of the persons connected with the Society of Friends, or Quakers, who perform or have charge of the marriage ceremony according to their rites and ceremonies.[19]

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[14] Op. Att'y Gen. Fla. 072-262 (1972)
[15] Op. Att'y Gen. Fla. 89-55 (1989)
[16] § 28.24(24), Fla. Stat.
[17] § 117.045, Fla. Stat.
[18] § 118.10(3), Fla. Stat.
[19] § 741.07(2), Fla. Stat.

4. MARRIAGE CEREMONY AND CERTIFICATE OF MARRIAGE

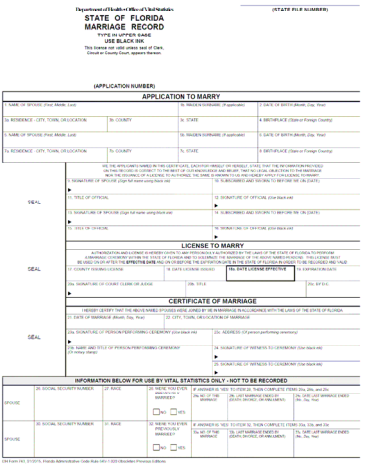
Before an officiant may solemnize a marriage (perform a marriage ceremony), he or she must require of the parties a valid Florida marriage license.[20] The wording of the ceremony itself may be of any form, as long as the couple's vows reflect their intentions to make a legally binding commitment to each other.

Within ten days after solemnizing the marriage, the officiant must execute the certificate portion of the license, and transmit it to the office from which the license originally issued (the clerk of circuit court).[21]

It is the responsibility of <u>the officiant</u> – *not* the couple – to return the completed marriage record to the clerk.[21] The officiant should place the marriage record in an envelope directed to the clerk who issued the license, and deposit it at a local post office as soon as can reasonably be done after the ceremony. Many clerks provide a self-addressed envelope for this purpose.

5. THE MARRIAGE RECORD FORM

The Florida Department of Health is responsible for approving the forms used in registering, recording, certifying, and preserving the original marriage record, and no other forms can be used other than those approved by the department.[22]


STATE OF FLORIDA
MARRIAGE RECORD
APPLICATION TO MARRY
LICENSE TO MARRY
CERTIFICATE OF MARRIAGE
INFORMATION BELOW FOR USE BY VITAL STATISTICS ONLY - NOT TO BE RECORDED

The current "Marriage Record" form used in the State of Florida, DH Form 743, is a form developed by the Bureau of Vital Statistics. The form incorporates into one all three parts of the marriage process – the parties' application for the license, the license itself, and the certificate

[20] § 741.08, Fla. Stat.
[21] § 741.07, Fla. Stat.
[22] § 382.003(7), Fla. Stat.

that the marriage has been solemnized. The entire form, including all signatures, must be in black ink, and typed information should be in all capital letters.

The "Application to Marry" portion of the form is the sworn statement of the parties, setting forth their full names, dates and places of birth, places of residence, and an assertion that no impediment to the marriage exists. The application must be sworn to and subscribed before an officer authorized to administer oaths. In almost all cases, this requires that the parties appear before a deputy clerk of the circuit court, either in person at the courthouse or via audio-video communication. The parties should contact the clerk's office for exact procedures.

APPLICATION TO MARRY

1. NAME OF SPOUSE *(First, Middle, Last)*		1b. MAIDEN SURNAME *(If applicable)*	2. DATE OF BIRTH *(Month, Day, Year)*
3a. RESIDENCE - CITY, TOWN, OR LOCATION	3b. COUNTY	3c. STATE	4. BIRTHPLACE *(State or Foreign Country)*
5. NAME OF SPOUSE *(First, Middle, Last)*		5b. MAIDEN SURNAME *(If applicable)*	6. DATE OF BIRTH *(Month, Day, Year)*
7a. RESIDENCE - CITY, TOWN, OR LOCATION	7b. COUNTY	7c. STATE	8. BIRTHPLACE *(State or Foreign Country)*

WE THE APPLICANTS NAMED IN THIS CERTIFICATE, EACH FOR HIMSELF OR HERSELF, STATE THAT THE INFORMATION PROVIDED ON THIS RECORD IS CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF, THAT NO LEGAL OBJECTION TO THE MARRIAGE NOR THE ISSUANCE OF A LICENSE TO AUTHORIZE THE SAME IS KNOWN TO US AND HEREBY APPLY FOR LICENSE TO MARRY.

SEAL

9. SIGNATURE OF SPOUSE *(Sign full name using black ink)* ▶	10. SUBSCRIBED AND SWORN TO BEFORE ME ON (DATE)
11. TITLE OF OFFICIAL	12. SIGNATURE OF OFFICIAL *(Use black ink)* ▶
13. SIGNATURE OF SPOUSE *(Sign full name using black ink)* ▶	14. SUBSCRIBED AND SWORN TO BEFORE ME ON (DATE)
15. TITLE OF OFFICIAL	16. SIGNATURE OF OFFICIAL *(Use black ink)* ▶

The "License to Marry" portion of the form is signed and sealed by the clerk of circuit court (or county judge). This is what authorizes the parties to be joined in marriage. The effective date and expiration date of the license will clearly be indicated in this area. The license portion also indicates the county where the license was issued. The court's seal must be present in the left margin.

LICENSE TO MARRY

AUTHORIZATION AND LICENSE IS HEREBY GIVEN TO ANY PERSON DULY AUTHORIZED BY THE LAWS OF THE STATE OF FLORIDA TO PERFORM A MARRIAGE CEREMONY WITHIN THE STATE OF FLORIDA AND TO SOLEMNIZE THE MARRIAGE OF THE ABOVE NAMED PERSONS. THIS LICENSE MUST BE USED ON OR AFTER THE **EFFECTIVE DATE** AND ON OR BEFORE THE EXPIRATION DATE IN THE STATE OF FLORIDA IN ORDER TO BE RECORDED AND VALID.

SEAL

17. COUNTY ISSUING LICENSE	18. DATE LICENSE ISSUED	**18a. DATE LICENSE EFFECTIVE**	19. EXPIRATION DATE
20a. SIGNATURE OF COURT CLERK OR JUDGE ▶	20b. TITLE		20c. BY D.C.

The "Certificate of Marriage" portion of the license is the primary concern for the officiant. The certificate, which is

completed and signed by the person performing the ceremony, reads: “I hereby certify that the above named spouses were joined by me in marriage in accordance with the laws of the State of Florida.” The officiant must legibly enter, in black ink, the date of marriage (in a “month, day, year” format), the city, town or location wherein the marriage was performed, and the officiant’s signature, mailing address, name, and title. There are lines for two witnesses to sign the certificate, but witnesses are not required by Florida law.[23] If witnesses are present, they should sign in black ink.

	CERTIFICATE OF MARRIAGE		
	I HEREBY CERTIFY THAT THE ABOVE NAMED SPOUSES WERE JOINED BY ME IN MARRIAGE IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA.		
	21. DATE OF MARRIAGE *(Month, Day, Year)*	22. CITY, TOWN, OR LOCATION OF MARRIAGE	
SEAL	23a. SIGNATURE OF PERSON PERFORMING CEREMONY *(Use black ink)* ▶		23c. ADDRESS *(Of person performing ceremony)*
	23b. NAME AND TITLE OF PERSON PERFORMING CEREMONY *(Or notary stamp)*		24. SIGNATURE OF WITNESS TO CEREMONY *(Use black ink)* ▶
			25. SIGNATURE OF WITNESS TO CEREMONY *(Use black ink)* ▶

At the bottom of the document is a confidential portion containing the parties’ Social Security Numbers and marital history. This portion of the form is not public record and does not routinely appear on certified copies.

INFORMATION BELOW FOR USE BY VITAL STATISTICS ONLY - NOT TO BE RECORDED						
	26. SOCIAL SECURITY NUMBER	27. RACE	28. WERE YOU EVER PREVIOUSLY MARRIED? ☐ NO ☐ YES	IF ANSWER IS 'YES' TO ITEM 28, THEN COMPLETE ITEMS 29a, 29b, and 29c		
SPOUSE				29a. NO. OF THIS MARRIAGE	29b. LAST MARRIAGE ENDED BY (DEATH, DIVORCE, OR ANNULMENT)	29c. DATE LAST MARRIAGE ENDED *(Mo., Day, Year)*
	30. SOCIAL SECURITY NUMBER	31. RACE	32. WERE YOU EVER PREVIOUSLY MARRIED? ☐ NO ☐ YES	IF ANSWER IS 'YES' TO ITEM 32, THEN COMPLETE ITEMS 33a, 33b, and 33c		
SPOUSE				33a. NO. OF THIS MARRIAGE	33b. LAST MARRIAGE ENDED BY (DEATH, DIVORCE, OR ANNULMENT)	33c. DATE LAST MARRIAGE ENDED *(Mo., Day, Year)*

DH Form 743, 01/2015, Florida Administrative Code Rule 64V-1.020 Obsoletes Previous Editions

Once the fully executed marriage record has been returned to the clerk of circuit court by the officiant, the clerk will enter into the record the date of marriage and the name of the officiant.[24] The clerk will usually mail a free certified copy of the official marriage record to the couple’s mailing address on file, and additional certified copies can be obtained for a nominal fee (usually $3 each). Each clerk determines how their office maintains the original

[23] Op. Att’y Gen. Fla. 045-283 (1945)
[24] § 741.09, Fla. Stat.

marriage records. In some counties, the original is returned to the newlyweds as with recordable documents; in others, it is retained by the clerk.

On or before the fifth day of the following month, the marriage record will be electronically transmitted to the Florida Department of Health, Bureau of Vital Statistics.[25] The department may issue certified copies of the marriage record to any person requesting it, upon payment of the necessary fees.[26] The department may also issue a commemorative marriage license signed by the Governor and bearing the seal of the state.[27]

The Florida Department of Health, Bureau of Vital Statistics, is the official custodian for the state's marriage records from 1927 to present. Currently, certified copies may be obtained from the department for a fee of $5 for the first certified copy, and $4 for each additional copy ordered at the same time (plus $1 postage and handling). Certified copies are routinely issued in a computer-generated abstract form; certified photocopies of the original record must be specifically requested. Commemorative certificates are $30 and include one computer-generated certification. More information can be found at the website of the Florida Department of Health, www.floridahealth.gov.

[25] § 382.021, Fla. Stat.
[26] § 382.025(2)(a), Fla. Stat.
[27] § 382.025(2)(c), Fla. Stat.